

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4628 of 1991

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

JAY GOPAL ENTERPRISE

Versus

RAMANBHAI MOHANLAL PARMAR

Appearance:

1. Special Civil Application No. 4628 of 1991
MR KM PATEL for Petitioner
RULE SERVED for Respondent No. 1
-

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 15/09/2000

ORAL JUDGEMENT

1. This is a petition by the 'employer' within the meaning of Industrial Disputes Act. The challenge is made to the award dated 12-4-1991 passed by the Labour Court, Ahmedabad directing reinstatement with backwages

of respondent Ramanbhai Mohanlal Parmar (hereinafter referred to as 'the workman'). Learned counsel appearing for the employer has read and explained to me the relevant contents of the award of the Labour Court. The reference before the Labour Court was in relation to two workmen, namely, the present respondent Ramanbhai Mohanlal Parmar and Veljibhai Gautam. Reference seeking relief of reinstatement by Veljibhai Gautam was rejected.

2. The present respondent Ramanbhai Mohanlal Parmar also did not enter the witness box before the Labour Court. The case of the employer was that the workman was appointed as a temporary welder and had abandoned the job. On behalf of the employer oral evidence was led in support of the above argument. In this state of facts and evidence the Labour Court passed the award in favour of the present respondent workman by observing in the award that in the absence of any evidence of the workman having abandoned the job, relief of reinstatement with backwages have to be granted to the workman in the absence of compliance of the provisions of Section 25F of the Industrial Disputes Act, 1947.

3. This petition was filed in 1991 by the employer and despite service of notice and also service of a special notice issued by this Court on the last date of hearing, i.e., 21-7-2000, the respondent workman has not appeared. It appears that he is no longer interested in the job and might be employed elsewhere.

4. Learned counsel for the employer is right in submitting that as the workman failed to appear before the Labour Court, his (the employer's) statement and evidence whatever worth placed by the employer should have been accepted that the workman had abandoned the job. The Labour Court was clearly wrong in granting relief to the workman of reinstatement with backwages when the workman had failed to appear to support his case.

5. Consequently, the petition succeeds and is hereby allowed. The impugned award of the Labour Court dated 12-4-1991 is hereby quashed. Rule is made absolute. However, in the circumstances of the case, there shall be no order as to costs.

(D.M. DHARMADHIKARI, C.J.)

